

**NANI v. PUBLIC UTILITIES BOARD**

[D.C.A. (Kulasekaram J.) October 21, 1980]

[Singapore — District Court Appeal No. 59 of 1979]

*Workmen's Compensation — Employment — Employee died of injury which occurred during argument with fellow worker — Whether accident arose in course of employment — Workmen's Compensation Act (Cap. 130), s. 3.*

*Labour Law — Employment — Injury in the course of employment — Scope of s. 3, Workmen's Compensation Act (Cap. 130), s. 3.*

The appellant in this case is the widow of the deceased Veloo who was employed as an electrician by the respondent. The appellant claimed Workmen's Compensation under the Workmen's Compensation Act for the death of her husband. She alleged that he died in the course of and arising out of his employment with the respondent.

The facts revealed that on that fateful day, September 4, 1976, the deceased was assigned to work as a team with a fellow worker, one Rozario, and make metal clamps for clamping down electric cables. In the course of their work as a team, an argument arose. The deceased complained that Rozario, was cutting the straps crookedly and asked him for the saw so that he could do the cutting properly. Rozario kept on cutting and replied that he would do the cutting himself as it had to be done fast. In the ensuing argument over this dispute there was an allegation by Rozario that the deceased had slapped him and he in turn had retaliated by pushing the accused. This caused the deceased to fall backwards on the floor and sustain a fractured skull from which he died.

The learned Commissioner of Workmen's Compensation who heard the claim of the appellant held that the deceased did not die in an accident within the meaning of the Workmen's Compensation Act. He found that the incident resulting in his death did not occur in the course of his employment nor did it arise out of his employment. The appellant appealed against this dismissal of her claim.

**Held**, allowing the appeal: (1) when workers with the low level of education as the deceased and Rozario are asked to work as a team by their employer, with very little direct on the spot supervision as in this case, disputes such as these over the manner in which the work is to be carried out can by no means be said to be unexpected. Such incidents are incidental to and here manifestly arose out of their employment in working as a team;

(2) the deceased sustained personal injuries in an accident in the course and arising out of his employment within the meaning of section 3 of the Workmen's Compensation Act;

(3) the appellant had proved her claim for compensation under the said Act.

**DISTRICT COURT APPEAL.**

*R. Karuppan Chettiar* for the appellant.

*Christopher Lau* for the respondent.

*Cur. Adv. Vult.*

**Kulasekaram J.:** The appellant here is the widow of the deceased Veloo who was employed as an electrician by the respondent — the Public Utilities Board and hereinafter referred to as the P.U.B. The appellant claimed Workmen's Compensation under the Workmen's Compensation Act, hereinafter referred to as the Act, for the death of the deceased Veloo, her husband, as she alleged he died in an accident in the course of and arising out of his employment with the P.U.B.

The learned Commissioner of Workmen's Compensation who heard the claim of the appellant dismissed her claim as he found that the deceased did not die in an accident within the meaning of the Act.

**A** He further found that the incident resulting in his death did not occur in the course of his employment nor did it arise out of his employment. She has appealed against this dismissal of her claim by the learned Commissioner of Workmen's Compensation.

On that fateful day September 4, 1976 when the deceased Veloo reported for work at the Margaret Drive Electrical Sub-Station of the P.U.B. he was assigned to work as a team with a fellow worker, one T.A. Rozario, a fitter in the same section, and make metal clamps for clamping down electric cables by Tan Kim Seng a Foreman in that Sub-Station and who had overall supervision over both these workers.

**C** The work of making these metal clamps involved four processes, namely, that of marking out lines on a long metal strip or rod, cutting them into straps by sawing along the marked out lines, then drilling and finally welding them.

While working as a team these two men assisted each other and took turns in carrying out these various **D** processes.

The evidence here revealed that on that morning at about 10.30 a.m. in the course of their working as a team an argument arose. The deceased complained that Rozario was cutting the straps crookedly and asked him for the saw so that he could do the cutting properly, while Rozario, knowing that the deceased was slow with his work, kept on cutting and replied that he would do the cutting himself as it had to be done fast. In the ensuing argument over this dispute there is an allegation by Rozario that the deceased had slapped him and he in turn had retaliated by pushing or punching the deceased. This caused the deceased to fall backwards on to the floor and sustain a fractured skull from which he died.

Rozario's evidence was that on that morning at about 10.30 while he was cutting the straps the deceased had asked him for the saw so that he could cut the straps. Though the deceased asked him three or four times, he did not reply him on the first two occasions but carried on with the cutting. He **G** (Rozario) then finally replied that he would be cutting it himself. Next he received a slap from the deceased but he admitted it was not a hard slap. When he received a slap he pushed him with the intention of asking him to stand aside. The deceased when he received the push fell backwards accidentally and sustained the personal injuries from the fall.

**H** Subramaniam s/o Singaram, who was a fellow worker with the deceased and Rozario and who on that day and about that time of the incident was working about 4 or 5 feet away from them, was the only other witness to give any direct evidence of the incident. According to him while he was there he heard the deceased telling Rozario that the straps had been cut crookedly and asking Rozario for the saw 3 or 4 times so that he could cut the straps. Rozario kept quiet on the first occasion, on the second occasion he replied he would continue to do the cutting himself and on the 3rd occasion he heard him say something in Malayalam. Rozario had said this in Malayalam in a forceful manner but did not appear

irritated. He was not facing them. He did not hear any slapping. The place was quite noisy then. He next saw that the deceased had fallen down and was unconscious and Rozario was calling out to him "Veloo, Veloo".

On all the evidence it was clear that there was nothing personal about this argument. It did not arise from any personal animosity between the deceased and Rozario. They were both assigned to work as a team and they were both keen to do their employer's duties properly. That was the main concern of both these employees which gave rise to their dispute. Each one thought he could do better in the work they had to perform as a team and so there were differences of opinion and each wanted his opinion to prevail in the interests of the employer's duty.

So clearly this dispute between the deceased and Rozario was in the course of their employment and the eventual slapping by the deceased and the subsequent pushing or punching of the deceased by Rozario which resulted in the deceased accidentally falling backwards and hitting his head against the floor and receiving personal injuries to his head from which he died were also all clearly arising out of the employment. The deceased when he slapped Rozario was clearly acting in the course of his employment. His main object was to get the saw from him and do the work properly.

The whole incident took only a matter of minutes. None of the acts of the deceased or Rozario were motivated by any personal animosity or rancour — not even the slap on Rozario by the deceased nor the retaliatory push or punch on the deceased by Rozario. The push, on Rozario's own admission, was not to hurt him but to get the deceased out of the way so that he could continue with the sawing.

Moreover when workers with the low level of education as the deceased and Rozario are asked to work as a team by their employer, with very little direct on the spot supervision as here, disputes such as these over the manner in which the work is to be carried out can by no means be said to be unexpected. Such incidents are incidental to and here manifestly arose out of their employment in working as a team. The deceased sustained these personal injuries in an accident in the course and arising out of his employment within the meaning of section 3 of the Act.

The learned Commissioner of Workmen's Compensation appears to have taken too narrow a view of the evidence when he isolated the slapping of Rozario by the deceased from the totality of the evidence concerning this unfortunate incident and went on to find that when the deceased slapped Rozario, the deceased was doing an act not in the course of his employment and the retaliatory act of Rozario which caused the deceased to fall did not arise out of his employment but of the deceased's own wrongful act. He further found that it was not an accident within the meaning of section 3 of the Act. For the reasons I have given above these findings ought to be set aside.

I therefore allow this appeal and find that the

appellant has proved her claim for compensation under the Act. There shall be judgment for the amount assessed with costs here and in the proceedings below.

*Appeal allowed.*

Solicitors: *Murphy & Dunbar; Cooma, Lau & Loh.*

## LAI CHI KAY & ORS. v. LEE KUO SHIN

[O.C.J. (Chua J.) February 27, 1981]

[Singapore — Civil Suit No. 3002 of 1978]

*Damages — Quantum — Brain injury — Medical student awarded \$727,514 — Third party claim by mother of injured for expenses — Claim disallowed.*

*Torts — Negligence — Motor accident — Brain injury suffered by medical student — Dispute only as to quantum — Third party claim.*

*D Damages — Interest — Court's discretion — Interest not allowed when damages awarded in running-down cases — Civil Law Act (Cap. 30), s. 9.*

The first and second plaintiffs in this case were walking on the pavement in Beach Road, Singapore on June 19, 1977 when they were knocked down by a car driven by the defendant. Both the said plaintiffs were injured and they together with the parents of the first plaintiff, commenced action against the defendant for damages. Liability was admitted by the defendant in respect of the claims of the first and second plaintiffs. The defendant denied liability as regards the claims of the parents of the first plaintiff.

The first plaintiff, Lai, was 24 years old and a fourth year medical student at the University of Singapore, at the time of the accident. Lai was from Hong Kong on a Singapore Government Scholarship. As a result of the accident he suffered extensive brain injuries, crushing all his hopes of being a doctor. He was discharged from hospital in April 1978 and resumed medical studies for some time. In January 1980, the Medical Board convened for his case and was of the view that it was most probable that he would never be able to complete the medical course as a result of the injuries sustained by him in the said accident. In May, 1980, Lai on the recommendation of the Board, took up Radiography. Four months later he had to abandon it as he could make no headway. Lai was subsequently not gainfully employed.

The third plaintiff, Tan was Lai's mother. On being told of the said accident she flew from Hong Kong to Singapore to be with her son. She remained with him ever after his discharge from the hospital.

The High Court held that the reasonable and fair basis to ascertain his loss of future earnings would be a sum of representing the mean between the maximum and minimum salaries in the Hong Kong Medical Service. That would be in the region of HK\$10,000 per month equivalent to S\$5,000 per month. Based on a multiplier of 15, the figure for loss of future earning arrived at S\$622,800. The court also considered his loss of pension rights. The formula is

Highest salary drawn (HK\$12,830) x months of Service (180) x 12

600

= HK\$46,188 = S\$23,094.

Two years' pension would be HK\$46,188 rounded to HK\$46,000.

The plaintiffs' counsel also applied for interest on the award for pain and suffering and loss of amenities of life from the date of the service of the writ.

**Held:** (1) in Singapore, the power of the court to award interest on debts and damages is to be found in section 9 of the Civil Law Act (Cap. 30). It is a discretionary power;

(2) in the present case, interest was not allowed based on the principle that interest should not be allowed when damages are awarded in running-down cases;